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REACH MEDIA GROUP, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DAVID TRINDADE, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

REACH MEDIA GROUP, LLC, a
Delaware limited liability company,

Defendant.

REACH MEDIA GROUP, LLC, a
Delaware limited liability company,

Third-Party Plaintiff,

v.

RYAN LENAHA, individually, KYLE
DANNA, individually, and EAGLE WEB
ASSETS INC., a corporation,

Third-Party Defendants.

CASE NO 5:12-CV-04759 (PSG)

CLASS ACTION

**UNOPPOSED MOTION AND
~~PROPOSED~~ ORDER TO EXTEND TIME
TO AMEND THIRD-PARTY COMPLAINT
AND SERVE THIRD-PARTY
DEFENDANT EAGLE WEB ASSETS INC.**

[Fed. R. Civ. Proc. 6(b)(1)(A)]

Judge: Honorable Paul Singh Grewal
Department: Courtroom 5
Complaint Filed: Sept. 12, 2012
Third-Party Complaint Filed: Nov. 15, 2012

Defendant and Third-Party Plaintiff Reach Media Group, LLC (“RMG”), by and through its undersigned attorneys, respectfully requests that this Court extend (1) the 14-day deadline set in this Court’s July 31, 2013 Order Denying Third-Party Defendants’ Motion to Strike and Granting-in-Part Motion to Dismiss (“Motion to Dismiss Order”) to file any amended Third-Party Complaint and (2) the 14-day deadline set in this Court’s February 7, 2013 Order to Extend Time for Service of any amended Third-Party Complaint on Third-Party Defendant Eagle Web Assets Inc. (“EWA”) following entry of the July 31, 2013 Motion to Dismiss Order. Plaintiff David Trindade (“Plaintiff”), and Third-Party Defendants Ryan Lenahan (“Lenahan”) and Kyle Danna (“Danna”) (collectively, the “Parties”), do not oppose this motion. (See Declaration of Vishali Singal, Esq. in Support of Motion to Extend Time to Amend Third-Party Complaint and Serve Third-Party Defendant Eagle Web Assets Inc. (“Singal Decl.”), ¶ 13.)

I. Relevant Statement of Facts

a. Procedural Facts

RMG filed a Third-Party Complaint in this matter on November 15, 2012 against Third-Party Defendants Ryan Lenahan, Kyle Danna, and EWA. (Dkt. #22.) RMG completed timely service of process on Lenahan and Danna but encountered difficulty serving EWA with the Third-Party Complaint. (Singal Decl., ¶ 2.)

During the Initial Case Management Conference (“CMC”) in this matter on January 8, 2013, counsel appearing on behalf of RMG, Vishali Singal, Esq., informed this Court that as of January 8, 2013, RMG had encountered difficulty serving EWA with the Third-Party Complaint. (Singal Decl., ¶ 3.) Ms. Singal further informed this Court that RMG likely required an additional month to effectuate service on EWA of the Third-Party Complaint. (Singal Decl., ¶ 3.) Subsequently, during the CMC, this Court set a 30-day deadline for RMG to serve EWA with the Third-Party Complaint, reflected in the Civil Minute Order of the same date. (Dkt. #37.) That deadline corresponded with the date February 7, 2013.

On or about January 10, 2013, Ms. Singal instructed Keith Nesbit, legal assistant at DLA Piper LLP (US), to research addresses to serve process on EWA’s Vice President of Accounting or Vice President of Human Resources and once identified, to authorize a process server to

1 attempt service at the identified address(es). (Singal Decl., ¶ 4.) Ms. Singal learned on or about
2 January 10, 2013 that Mr. Nesbit located an address online that appeared to be associated with
3 Savy Lam, identified on EWA's website on January 10, 2013 as Vice President of Accounting.
4 (Singal Decl., ¶ 4, Dkt. #53-2.) As a result, Ms. Singal instructed Mr. Nesbit to authorize a
5 process server to attempt service of the Third-Party Complaint at that address. (Singal Decl., ¶ 4.)

6 One day later, on Friday, January 11, 2013, RMG was electronically served through this
7 Court's Electronic Case Filing system with Third-Party Defendants Lehanan's and Danna's
8 Notice of Motion and Motion to Strike And/Or Dismiss Third-Party Complaint and Memorandum
9 of Points and Authorities In Support Thereof ("Motion"). (Dkt. #38.) The Notice of Motion to
10 Strike And/Or Dismiss Third-Party Complaint ("Notice of Motion") specified a hearing date of
11 February 26, 2013. (Dkt. #38.)

12 Subsequently, on or about January 16, 2013, Ms. Singal learned that the process server
13 had unsuccessfully attempted service of the Third-Party Complaint on January 14, 2013 at the
14 address associated with Ms. Lam. (Singal Decl., ¶ 7.) In the meantime, RMG's counsel had
15 reviewed the Motion, and in light of its content, shifted their focus to preparing an opposition
16 brief to the Motion and considering the implications of the Motion on allegations and counts
17 stated in the Third-Party Complaint as to EWA. (Singal Decl., ¶ 6.) On or about January 22,
18 2013, Ms. Singal instructed Mr. Nesbit to obtain a background report for Mr. Eagle, to identify
19 additional addresses at which to attempt service of the Third-Party Complaint on EWA, and on or
20 about January 24, 2013, Ms. Singal received that background report. (Singal Decl., ¶ 8.)

21 On January 25, 2013, this Court reset the February 26, 2013 hearing on the Motion to
22 March 12, 2013. (Dkt. #45.)

23 On or about February 5, 2013, the Parties stipulated to RMG's requested extension to
24 serve EWA with the Third-Party Complaint or an amended Third-Party Complaint of 14 days
25 from the date this Court issued its order on the Motion, or such other date and time thereafter as
26 the Court ordered, on the grounds that because the Third-Party Complaint asserts common
27 allegations and two causes of action against all three Third-Party Defendants, including EWA,
28 and that those allegations and causes of action were the subject of the Motion, RMG sought to

1 await the outcome of the Motion in determining how it affected the content of the Third-Party
2 Complaint as to EWA and the decision to proceed against EWA. (Singal Decl., ¶ 9, Dkt. #53-1.)

3 On February 7, 2013, this Court entered an Order to Extend Time for Service of any
4 amended Third-Party Complaint on Third-Party Defendant EWA in this matter by 14 days
5 following the date this Court issued its order on the Motion (“Motion to Dismiss Order”). (Dkt. #
6 54.)

7 On March 12, 2013, this Court heard oral arguments on the Motion. (Dkt. #62.)

8 On July 31, 2013, this Court issued and entered the Motion to Dismiss Order, in which it
9 required that RMG file any amended Third-Party Complaint within 14 days of the date of the
10 Motion to Dismiss Order, which corresponds with the date August 14, 2013. (Dkt. #64.)

11 Based on this Court’s February 7, 2013 and July 31, 2013 orders, August 14, 2013 is the
12 deadline by which RMG must file any amended Third-Party Complaint and serve Third-Party
13 Defendant EWA with it if EWA is still named as a Third-Party Defendant.

14 b. RMG’s Financial Condition

15 At the present time, RMG is encountering severe financial difficulties. (Singal Decl., ¶
16 12.) As a result of RMG’s weak financial condition, RMG is evaluating its available options to
17 address its financing and operating challenges. (Singal Decl., ¶ 12.)

18 **II. Argument**

19 Under FRCP 6, where an act “may or must be done within a specified time, the court may,
20 for good cause, extend the time [] with or without motion or notice if the court acts, or if a request
21 is made, before the original time or its extension expires.” FRCP 6(b)(1)(A). Here, RMG
22 respectfully submits a request for a 30-day extension of time to both file an amended Third-Party
23 Complaint and serve EWA with the amended Third-Party Complaint, before the deadline set by
24 this Court of August 14, 2013 to do so.

25 RMG requests a 30-day extension of time on the grounds that it requires this period of
26 time to fully evaluate its available options to address its financing and operating challenges. This
27 Court’s resources, along with both existing and currently absent parties, will be conserved, which
28 otherwise might be expended on additional motion practice in response to an amended Third-

1 Party Complaint. The conservation of judicial resources and costs on the parties involved is good
2 cause for granting this request.

3 Accordingly RMG respectfully requests through this motion that this Court extend the
4 deadline by which it must amend and serve the Third-Party Complaint to 30 days from August
5 14, 2013. The parties appearing in this action will not be prejudiced by this extension of time.
6 Plaintiff already propounded discovery requests on RMG and RMG served responses and
7 objections to these requests. (Singal Decl., ¶¶ 5, 10.) Further, this Court ruled on the two pre-
8 answer motions filed by Third-Party Defendants Lanahan and Danna, one jointly and the other
9 only by Lenahan, on July 31, 2013, and given that RMG has not yet propounded discovery on
10 either of them, Third-Party Defendants Lenahan and Danna currently have no discovery
11 obligations. (Singal Decl., ¶ 11; Dkt. #64.) Further, no trial schedule (or scheduling order) has
12 yet been issued for this case. Accordingly, this requested extension of time, the sixth extension of
13 time in this matter and the fourth request to this Court for an extension of time by RMG (Singal
14 Decl., ¶ 14), would have no impact on any such schedule.

15 **III. Conclusion**

16 For all these reasons, RMG respectfully requests that this Court grant Defendant and
17 Third-Party Plaintiff RMG's motion to extend time for amending the Third-Party Complaint and
18 serving EWA to 30 days following August 14, 2013.

19 Dated: August 13, 2013

DLA PIPER LLP (US)

21 By: /s/ Vishali Singal

22 ERIN JANE ILLMAN

VISHALI SINGAL

23 Attorneys for Defendant and Third-Party
Plaintiff

24 REACH MEDIA GROUP, LLC

~~PROPOSED~~ ORDER

Good cause appearing therefore, Defendant and Third-Party Plaintiff Reach Media Group, LLC's deadline to amend its Third-Party Complaint and serve Third-Party Defendant Eagle Web Assets Inc. with the amended Third-Party Complaint is extended to ~~xxxxxx days from xxxxxxxx~~ September 13, 2013, ~~2013~~.

IT IS SO ORDERED.

DATED: August 14, 2013

By Paul S. Grewal
HONORABLE PAUL SINGH GREWAL
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I, Violet Rajkumar, declare:

I am a citizen of the United States and employed in San Francisco County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is DLA Piper LLP (US), 555 Mission Street, Suite 2400, San Francisco, California 94105-2933. On August 13, 2013, I served a copy of the within document(s):

UNOPPOSED MOTION AND [PROPOSED] ORDER TO EXTEND TIME TO AMEND THIRD-PARTY COMPLAINT AND SERVE THIRD-PARTY DEFENDANT EAGLE WEB ASSETS INC.

DECLARATION OF VISHALI SINGAL, ESQ., IN SUPPORT OF UNOPPOSED MOTION TO EXTEND TIME TO AMEND THIRD-PARTY COMPLAINT AND SERVE THIRD-PARTY DEFENDANT EAGLE WEB ASSETS INC



by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.



By electronic service. I caused the documents to be sent on February 15, 2011 to the persons at the electronic notification addresses listed on the below Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Benjamin H. Richman Rafey S. Balabanian Christopher L. Dore Edelson McGuire LLC 350 North LaSalle Street, Suite 1300 Chicago, IL 60654 312 589-6370 Fax: 312 589-6378 brichman@edelson.com rbalabanian@edelson.com cdore@edelson.com	Sean Patrick Reis Edelson McGuire, LLP 30021 Tomas Street, Suite 300 Rancho Santa Margarita, CA 92688 949-459-2124 Fax: 949-459-2123 sreis@edelson.com	Karl S. Kronenberger Jeffrey M. Rosenfeld Virginia A. Sanderson 150 Post Street Suite 520 San Francisco, CA 94108 karl@krinternetlaw.com jeff@krinternetlaw.com ginny@krinternetlaw.com
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I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on August 13, 2013, at San Francisco, California.


Violet Rajkumar